

REMARKS

Claims 23, 29-39, 42, 43, 46-48, 50-62 and 64 are presented in this application. Claims 23, 58, 62 and 64 are in independent form. Claims 1-22, 24-28, 40, 41, 44, 45 and 49 have been previously cancelled. Claim 63 has been cancelled without prejudice by the current amendment. Claims 23, 58, 62 and 64 have been amended to further define the invention. Claims 23, 58, 59, 62 and 64 have also been amended to make minor, non-substantive corrections. The claim amendments and additions do not introduce new matter so that they should be entered at this time to reduce the issues for appeal. It is believed that these amendments do not raise new issues that require a further search since the amendments recite features that were previously presented in dependent claims such as claims 43 to 45. For the reasons that follow, it is respectfully submitted that these changes overcome the rejections, thus reducing the issues for appeal. In particular, applicants submit that these changes now place the entire application in condition for allowance.

Rejection under 35 U.S.C. § 112

Claim 60 has been rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Specifically, the Examiner states that the amendment to recite that the hot water has a temperature "above about 70 degrees" is not part of the original disclosure. Applicants respectfully disagree, and refer the Examiner to paragraph [156] of the published application, which states that it is "advantageous to direct water through a dispenser that has been heated to a temperature between about 70 C and 95 C" (emphasis added). The same paragraph goes on to state that hot water is sufficient for sanitizing purposes as long as it is used for a time sufficient to effect reduction of microbiological deposits. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection.

Claims 23, 29-32, 34-37, 39, 42, 43, 46-48, and 50-57 have been rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Specifically, the Examiner states that the amendment to recite that "the sanitizing operation occurs independently of the cleansing operation and rinsing" is not supported by the original disclosure. Applicants respectfully disagree. Paragraph [16] of the published application discloses that the "cleansing mechanism can be configured for performing first and second cleansing operations that are *different* from each other" (emphasis added). The same paragraph states that this can take the form of a sanitizing operation followed by a cleaning and sanitizing

operation. Alternatively, "the first cleansing operation can be a cleaning operation, and the second cleansing operation can be a sanitizing operation." Publication, paragraph [16]. Using the disclosure cited above as support, which describes two different operations in a specific temporal order, i.e., first and second cleansing operations, Applicants have amended claim 23 to recite that "the sanitizing operation occurs non-concurrently with the cleansing operation and rinsing". It is believed that this amendment is amply supported by the referenced disclosure. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections.

Claims 23, 29-32, 34-37, 39, 42, 43, 46-48, and 50-57 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully refer the Examiner to the remarks made in the previous paragraph, and believe that the amendment to recite that the sanitizing operation occurs non-concurrently with the other operations addresses the present rejection. Specifically, it is believed that the alleged lack of clarity caused by previous use of the phrase "independently of" the cleansing operations is remedied by the recitation that the processes occur "non-concurrently", and thus are distinct or different processes. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections.

Rejection under 35 U.S.C. § 102(b)/103(a)

The Examiner has reminded the Applicants of their obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made. Applicants respond by stating that upon information and belief, all of the pending claims were commonly owned at all relevant times.

Claims 23, 29-32, 34-36, 39, 42, 43, 46-48, 50-56, 58 and 62-64 have been rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,762,096 to Mirabile ("the Mirabile '096 patent"), which incorporates U.S. Patent No. 4,527,585 to Mirabile ("the Mirabile '585 patent"). In addition, claims 37, 57, 59, 60 and 61 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Mirabile '096 patent.

The Mirabile '096 patent discloses a conduit cleaning apparatus that manages flows of liquid detergent and pressurized water using a computerized controller. Mirabile '096 requires detergent for cleaning and then requires rinsing to remove any remaining cleaning

solution. In contrast, the present invention utilizes hot water exclusively, without additives, for use in a sanitizing operation. This is a major simplification of the process disclosed in the Mirabile '096 patent, since a single heated water stream in the present invention replaces the cleaning and rinsing streams of the patent.

The Mirabile '096 patent does not disclose, teach or suggest such a simplification. In fact, Mirabile states that "in order to sanitize larger beverage conduits, more liquid detergent is typically required and valve 88 can be kept open for a longer period of time." *See*, Mirabile, col. 4, lines 64-67. Mirabile underscores the point by further stating that detergents "after being mixed with water lose their sanitizing potency in a short time". Mirabile, col. 5, lines 3-5. Thus, a significant amount of detergent must be used and also must be applied at a relatively quick time period after being prepared. Thereafter, the rinsing process of Mirabile utilizing water alone is required to remove any remaining cleaning solution. *See*, Mirabile, col. 7, lines 30-34.

In contrast, amended claim 23 of the present application recites "directing hot water to the at least a portion of the dispensing path to conduct a sanitizing operation... wherein the hot water is at a temperature which is sufficient to sanitize the at least a portion of the dispensing path". Support for this amendment is found in paragraphs [154-157] of the published application. Paragraph [156] states unambiguously that this hot water by itself is completely effective for use as a sanitizing fluid, to wit, water "is sufficiently hot for purposes of the invention as long as it is hot enough to reduce microbiological deposits." Thus, Mirabile does not teach or suggest every feature of claim 23. Further, claims 29-32,34-36,39,42,43,46-48 and 50-56 all depend from claim 23, and are allowable for at least the reasons discussed above. Therefore, Applicants respectfully request withdrawal of the rejections of claims 23, 29-32,34-36,39,42,43,46-48 and 50-56.

Amended independent claims 58, 62 and 64 all recite, using slightly different language, the same feature of claim 23 that was discussed above, specifically, the use of hot water having a temperature which is sufficient to sanitize the at least a portion of the dispensing path. Further, claims 59-61 depend from claim 58, and are allowable for at least the same reasons. Therefore, Applicants respectfully request withdrawal of the rejections of claims 58-62 and 64.

Regarding the rejections of claims 37, 57, 59, 60 and 61, these claims depend from independent claims 23 and 58, and as such are allowable for the reasons already discussed

above. Accordingly, Applicants respectfully request withdrawal of the rejections of claims 37, 57, 59, 60 and 61.

In light of Applicants' amendments and remarks, a notice of allowance is respectfully requested. Should the Examiner have any questions or concerns regarding the amendments, remarks or the above-identified application, then a telephonic interview with the undersigned is respectfully requested to discuss any such questions or concerns and to accelerate the allowance of the above-identified application.

Respectfully submitted,

Date: 5/1/07


Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN LLP
CUSTOMER NO. 28765
(212) 294-3311